

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**CRISTA MITCHELL, CRISTA
MITCHELL IANF MICHAEL
MITCHELL, AND CRISTA
MITCHELL IANF BRYAN MITCHELL**

VS.

**LEESER TX, INC. AND ALAN
CONSTANTINE COUPLAND**

§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 1:21-cv-402

DEFENDANTS' NOTICE OF REMOVAL

1. **COME NOW** Defendants **Leeser Tx, Inc. and Alan Constantine Coupland** and pursuant to 28 U.S.C. §§ 1332, 1441(b) and 1446(a), file this their Notice of Removal with respect to the above matter as follows:

I. COMMENCEMENT AND SERVICE

2. On March 25, 2021, a suit was commenced against Defendant Leeser Tx, Inc. in the 428th District Court of Hays County, Texas entitled *Crista Mitchell, Crista Mitchell I/A/N/F Michael Mitchell, and Crista Mitchell I/A/N/F Bryan Mitchell v. Leeser Tx, Inc. and Alan Constantine Coupland*, Cause No. 21-0701. *Exhibit 1*. This suit arises out of a motor vehicle collision that occurred on December 4, 2019 on Hays County, Texas. *Id.*
3. Service of process was made upon Defendants on April 7, 2021. See *Exhibits 2 & 3*.
4. Defendants timely filed an answer in state court on May 3, 2021. See *Exhibits 4 & 5*.
5. This Notice of Removal is filed within thirty days of the receipt of service of process and is timely filed under 28 U.S.C. § 1446(b). This Notice of Removal is also filed within one year of the commencement of this action and is thus timely pursuant to 28 U.S.C. § 1446(c).

II. DIVERSITY OF CITIZENSHIP

6. This United States District Court has jurisdiction over this dispute pursuant to 28 U.S.C. §1332(a)(1) and (c) because it is between citizens of different states, and the claims asserted by Plaintiff involve an amount in controversy in excess of \$75,000.00, exclusive of interest and costs. See *Exhibit 1* ¶¶ 2-4 and 21. As such, this Court has original jurisdiction over this action pursuant to 28 U.S.C. §1332(a)(1) and (c). Therefore, removal is proper. See 28 U.S.C. §1441(a).
7. Plaintiff, at the time this action was commenced was a citizen of Bowie County, State of Texas. See *Exhibit 1* ¶ 2.
8. Defendant Leeser Tx, Inc. is a foreign corporation with its principal place of business in the State of Missouri. See *Exhibit 1* ¶ 3.
9. Defendant Alan Constantine Coupland is a resident of the State of Missouri.
10. Defendants are citizens of the State of Missouri and are not citizens of the State of Texas, wherein this action was brought. See *Exhibit 1* ¶ 4.
11. Accordingly, complete diversity of citizenship between Plaintiff and Defendants existed at the time Plaintiff filed its Original Petition and it also exists as of the date of this Notice of Removal.

III. AMOUNT IN CONTROVERSY

12. Under established federal law, a case may be removed unless it "appear[s] to a legal certainty that the claim is really for less than the jurisdictional amount." *Marcel v. Pool Co.*, 5 F.3d 81 (5th Cir. 1993) (citing *St. Paul Met-clay Indemnity Co. v. Red Cab Co.*, 303 U.S. 282 (1938)); *Williams v. State Farm Mutual Automobile Ins. Co.*, 931 F. Supp. 469 (S.D. Tex. 1995); *Johnson v. Dillard Dept. Stores, Inc.*, 836 F. Supp. 390 (N.D. Tex.

1993). In assessing whether removal is proper, the Court must first determine whether it is facially apparent that the amount in controversy exceeds \$75,000.00. *Allen v. R & H Oil & Gas Co.*, 63 F.3d 1326 (5th Cir. 1995); *HWJ, Inc. v. Burlington Ins. Co.*, 926 F. Supp. 593 (E.D. Tex. 1996). The sum demanded in good faith in the initial pleading shall be deemed to be the amount in controversy. 28 U.S.C. §1446(c)(2); *S.W.S. Erectors, Inc. v. Infax, Inc.*, 72 F.3d 489, 492 (5th Cir. 1996).

13. This matter became removable immediately when Plaintiffs filed their Original Petition seeking “monetary relief over One Million And 00/100 Dollars (\$1,000,000.00)...” (*See Ex. I at ¶ 21.*)

IV. VENUE

14. Venue lies in the Western District of Texas, Austin Division, pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because Plaintiff filed its state court action in this judicial district and division. (*See Ex. I.*)

V. CONSENT TO REMOVAL

12. Both Defendants named and served join in this Notice of Removal through their undersigned counsel.

VI. NOTICE

13. Defendants shall give notice of its filing of this Notice of Removal to all parties of record pursuant to 28 U.S.C. § 1446(d). Defendants shall also file with the clerk of the state court, and shall serve upon Plaintiff’s counsel, a notice of the filing of this Notice of Removal.

VII. STATE COURT PLEADINGS

14. Copies of all state court pleadings and orders are attached to this Notice of Removal.

VIII. EXHIBITS TO NOTICE OF REMOVAL

15. The following documents are attached to this Notice:

Exhibit	Document Name	Filing Date
1.	Plaintiff's Original Complaint and Application for Temporary Restraining Order	3/25/2021
2.	Request for Process Alan C Coupland	3/25/2021
3.	Request for Process Thomas M Van Nostrand	3/25/2021
4.	Citation - Alan Coupland - Return of Service	4/14/2021
5.	Citation - Leeser Tx Inc. - Return of Service	4/14/2021
6.	Defendant Alan Coupland's Original Answer	4/21/2021
7.	Defendant Leeser Tx, Inc.'s Original Answer and Jury Demand	5/3/2021
8.	State Court Docket Sheet	3/25/2021

IX. CONCLUSION

16. WHEREFORE, Defendants **Leeser Tx, Inc. and Alan Constantine Coupland**, respectfully request that this action now pending against it in the 248th Judicial District Court, Hays County, Texas, be removed to this Honorable Court for trial and determination of all issues.

DATED this 6th day of May, 2021.

Respectfully submitted,

BROTHERS, ALVARADO, PIAZZA & COZORT, P.C.

By: /s/ Matthew R. Maddox

Matthew R. Maddox
Federal I.D. No. 1118331
State Bar No. 24060206
mmaddox@brothers-law.com
10333 Richmond Ave., Suite 900
Houston, Texas 77042
Tel: (713) 337-0750
Fax: (713) 337-0760

Attorneys for Defendants Leeser Tx, Inc. and Alan Constantine Coupland

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was served upon the following counsel of record electronically on this the 6th day of May, 2021.

VIA E-SERVICE

Robert Rodery
LAW OFFICES OF THOMAS J. HENRY, PLLC
5711 University Heights Blvd, Suite 101
San Antonio, TX 78249

BROTHERS, ALVARADO, PIAZZA & COZORT, P.C.

By: /s/ Matthew R. Maddox
Matthew R. Maddox